

E-Mail Request for Emergency Relief

1. Case Number: 05 -cv- 747 -SLR

2. Check the box that applies:

- ☒ Requesting a teleconference with the parties and the court
☐ Requesting an in-person conference with the parties and the court
☐ Requesting either of the above listed options at the court's determination

3. BRIEFLY describe the reason for this **emergency** request:

Plaintiff TruePosition seeks an order compelling Andrew to make the source code in its accused product available pursuant to the Court's Default Standard for Source Code Access.

On June 21, 2006, on the eve of a previously scheduled discovery conference, Andrew represented that it would make its source code available pursuant to that standard. Andrew has failed to do so and has failed to make its source code available in any form that can be searched or that can reasonably be analyzed.

*Any text added beyond the limits of this space will be disregarded by the court.

4. Name of opposing counsel contacted about this request: Michael Parks

5. Response of opposing counsel to this request:

6. Name of local counsel making this request: James D. Heisman

7. Today's Date: August 10, 2006

For court use only:

☒ A teleconference will be held on 8/16/06 at 9:30 am to be coordinated and initiated by plaintiff's counsel.

☐ An in-person discovery conference will be held on:

☐ Other:

Opposing Counsel's Response to E-Mail Request for Emergency Relief

1. Case Number: 05 -cv- 0747 -SLR
2. BRIEFLY state your response to the **emergency** request made by opposing counsel:

Andrew is willing to provide its source code, and has been working with TPI to finalize an agreement with TPI's suggested escrow agent. On 8/7, TPI told Andrew for the first time that it no longer would be a party to the agreement. On 8/8, TPI told Andrew for the first time that it wanted the escrow to be in California. It would be both burdensome and compromise Andrew's most sensitive source code for the escrow location to be in California because the proposed escrow agent does not monitor review of the code; it requires Andrew to be the monitor. Both Andrew and its counsel are located in Chicago, and the escrow agent has offices there. Andrew must also fix anything that goes wrong with the escrowed computer. TPI is not located in California either. Andrew respectfully requests the location be Chicago, or alternatively that TPI choose an agent that will agree to monitor the review.

*Any text added to beyond the limits of this space will be disregarded by the court.

3. Name of local counsel submitting this response: Josy W. Ingersoll
4. Today's Date: August 11, 2005
